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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

In re K.R., et al., Persons Coming Under  
the Juvenile Court Law.

B264808  
(Los Angeles County  
Super. Ct. No. DK08092)

LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN AND  
FAMILY SERVICES,

Plaintiff and Respondent,

v.

S.N., et al.,

Defendants and Appellants.

APPEAL from orders of the Superior Court of Los Angeles County, D. Zeke Zeidler, Judge. Affirmed.

Patricia K. Saucier, under appointment by the Court of Appeal, Defendant and Appellant S.N.

Robert McLaughlin, Defendant and Appellant Todd H.

Mary C. Wickham, County Counsel, R. Keith Davis, Acting Assistant County Counsel, and Jeanette Cauble, Principal Deputy County Counsel, for Plaintiff and Respondent.

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S.N. (mother) and Todd H., Sr. (father) appeal from jurisdiction and disposition orders declaring children K.R. and Todd H. dependents of the court under Welfare and Institutions Code section 300.<sup>1</sup> Both parents contend there is insufficient evidence to support the dependency court's jurisdictional findings that K.R. and Todd were minors described by section 300, subdivisions (b) and (j), based on medical neglect, lack of supervision, and domestic violence. In addition, father contends the dependency court's disposition order, which included an order to submit to drug testing, was an abuse of discretion. We conclude the jurisdictional findings are supported by substantial evidence, and the disposition order has been rendered moot by a subsequent court order terminating jurisdiction in this case. We therefore dismiss the appeal from the disposition order, and otherwise affirm.

## **FACTS AND PROCEDURAL BACKGROUND**

K.R. was born in March 2009, to mother and a man whose whereabouts are unknown. Todd was born in April 2012, to mother and father. Todd has a severe medical condition that requires daily medical treatment and an in-home nurse. On June 23, 2013, mother tried to prevent father from leaving the house. Father grabbed mother's arms and tossed her to the ground, causing mother to injure her right arm. Father punched holes in the living room walls. Todd was present during the altercation. Father moved out of the home in 2013 or 2014.

Premier Health Care Services took over Todd's nursing care in April 2014. The agency explained the following rules: mother must be available to assist the nurse in case of emergency; K.R. could not be left alone with the nurse, because the nurse needed to supervise Todd at all times; mother must provide a professional environment for the nurses; and mother needed to take Todd to medical appointments and have the current

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<sup>1</sup> All statutory references are to the Welfare and Institutions Code, unless otherwise stated.

doctor's orders on file in order for the nurses to continue providing for his medical needs. Mother had a difficult time following the agency's rules.

Between June 30 and October 6, 2014, mother brought Todd to four medical appointments and cancelled one appointment. She did not show up for six scheduled medical appointments during that time. None of the missed appointments were rescheduled. The agency reminded mother that Todd's appointments were important, because the agency required a current doctor's order on file. Mother said she did not take Todd to the appointments because she had no transportation. The agency offered seven times to send a social worker to help mother find resources for transportation and teach her to keep up with bills, but mother declined.

Despite being told that it was not permitted, mother left K.R. unsupervised with nurses, or she left K.R. with a neighbor who allowed K.R. to return to the apartment unsupervised. After the nursing agency learned mother left K.R. with a nurse, mother signed a contract acknowledging that K.R. could not be left unsupervised in the home with any nurse at any time. On the night of October 21, 2014, Mother took K.R. to a neighbor's home, but K.R. returned to the apartment alone and was unsupervised at the home for a few hours. She did not know mother's location. Mother did not return at 11:00 p.m. as expected. Contacted by telephone, she said her friend's car had broken down and she had no transportation back to the house, but she would call father to stay with Todd. The nurse on duty stayed with Todd until mother returned at 11:45 p.m.

On October 23, 2014, there was no gas service in the family home, because the bill had not been paid. A staff member from the agency spoke to mother about having the gas turned on, because nurses needed to give Todd a bath and clean his medical supplies with hot water. Mother said the nurses could boil water to clean the supplies and give Todd baths. Mother did not have money to pay the gas bill. Mother left the house when Nurse Lisa Ann Menges arrived for her shift at 7:00 a.m. Todd's tracheotomy tube dislodged and Nurse Menges needed help to reinsert it. She called mother, but mother did not return the call. Nurse Menges called an ambulance at 9:30 a.m. The ambulance took Todd to the hospital, where the device was reinserted. Nurse Menges left messages

for mother explaining Todd was at the hospital and mother needed to come to the hospital. She called father, but he did not answer his phone. Mother became very upset when Nurse Menges was finally able to contact her. Mother concluded Todd was dying and repeatedly threatened to sue Nurse Menges. When Nurse Menges tried to call mother with updates, mother hung up on her.

Todd was released from the hospital at 1:00 p.m., but Nurse Menges could not drive him and monitor him simultaneously. She spoke to mother, who refused to come to the hospital until Todd was “really released,” because she did not want to sit in the hospital all day. When Nurse Menges called to tell her Todd was released, mother did not answer, so the nurse left a message. She had to call another nurse to relieve her at the hospital. Nurse Darlene West arrived at the hospital at 3:00 p.m. to relieve Nurse Menges. Mother arrived at 5:00 p.m. Once they were back home and mother had put Todd in pajamas, mother left the house to help a friend move.

On October 24, 2014, the agency told mother again that she could not leave K.R. with the nurses. Mother said she asked a neighbor to supervise K.R. and the neighbor did not know K.R. had gone back home. The agency reiterated that mother needs to be home for the nurses to leave, and she needs to take Todd to his medical appointments. Mother replied that she had no transportation and no money for the gas bill. She declined services from the agency’s social worker.

A report was made to the Department of Children and Family Services (the Department). In addition to the incidents above, the reporting party noted that mother smelled of marijuana on a daily basis and the home smelled of marijuana. Mother was disrespectful and insulting to nurses, and several nurses declined to work with Todd due to mother’s behavior.

A social worker visited on October 24, 2014. Mother denied leaving K.R. unsupervised and stated that she left K.R. with a neighbor, who sent her back without realizing mother was not home. Mother denied being told several times not to leave K.R. with the nurse. She claimed one nurse volunteered to watch her, but mother did not think it was a good idea. Mother denied that she was offered a social worker to help obtain

transportation services and teach her to keep up with bill paying. She had been told a few months earlier about a transportation service. She tried to contact the service, but never heard back and did not have time to follow up. Todd attended his pediatric visit on October 1, 2014, and did not have another appointment scheduled until November 2014. She stated that both children's medical care was current. Her phone was broken, which was the reason that she could not respond when Todd was hospitalized. Mother has a medical marijuana card for pain in her wrist. She has a metal rod and plate in her wrist from a broken arm. She only smokes marijuana as needed for pain and had not smoked for a month. The last time that she smoked, father watched the children, but she does not smoke any longer.

Father told the social worker that he comes by the home to help with the children. He was unaware mother did not have transportation to get to the hospital to pick up Todd. He knew the gas was turned off and intended to give mother extra money for the bill. He was aware Todd had missed a few doctor appointments because there was no transportation. He did not know mother was offered a social worker's help with transportation and bill paying. He thought mother was allowed to leave K.R. with the nurses in order to run errands. He said neither parent had smoked marijuana in the past seven or eight months, although mother has a medical marijuana card for loss of appetite and insomnia. He was aware mother had sworn at one of the nurses.

The social worker spoke with the nursing agency the following day. A staff member explained that mother is allowed to leave the house to run errands, as long as she communicates that she is leaving and is responsible about returning when the nursing shift ends. However, mother had been spoken to several times about not leaving K.R. unattended.

The social worker spoke with a nurse practitioner and Todd's primary care provider at Harbor UCLA Medical Center to determine whether Todd was attending necessary medical appointments. Todd's doctor stated that mother often calls in and tries to keep his medication up to date. Despite missing appointments, Todd has been okay when she brings him in.

A dependency petition was filed on October 30, 2014, based on allegations of medical neglect, inadequate supervision, and substance abuse. After a hearing, the dependency court found father was Todd's presumed father and a prima facie case was established to detain the children. The children were released to mother, while father was allowed monitored visits.

A jurisdiction and disposition report was filed December 9, 2014. Mother had negative drug tests on October 29, November 7, and November 21, 2014. The report stated it was safe for the children to remain in the home and mother's care. The home's utilities were in service. The report recommended the court assume jurisdiction of the children and order services.

An amended petition was filed on February 6, 2015. The petition alleged in counts b-1 and j-1 that the parents failed to take Todd to necessary medical appointments, and mother failed to make herself available to assist the in-home nurse on October 23, 2014, when additional care was required. The parents' medical neglect endangers Todd's physical health and safety, creates a detrimental home environment, and places Todd and his sibling K.R. at risk of physical harm, damage, danger, and medical neglect. The petition alleged in counts b-2 and j-2 that mother created a detrimental home environment by failing to provide supervision for K.R. Mother's whereabouts were unknown on several occasions. The home environment established for K.R. endangers the child's physical health, safety, and well being and places her and her sibling Todd at risk of physical and emotional harm. In counts b-5 and j-5, the Department alleged the domestic violence between mother against father on June 23, 2013, endangered the children's health and safety, and placed them at risk of physical harm, damage, and danger. The petition contained two additional counts concerning substance abuse which were ultimately dismissed by the dependency court.

On March 6, 2015, the Department filed an ex parte application explaining that father had not made himself available for assessment since the detention hearing and his whereabouts were unknown. The Department recommended that Todd be detained from father and remain released to mother. After a hearing on March 6, 2015, the dependency

court found a prima facie case had been established that Todd and K.R. were dependent children of the court. After finding substantial danger existed as to their physical or emotional health, the court detained the children from father. The court ordered the children to remain released to mother. The court ordered visits for father twice per week monitored by the Department.

The Department filed a last minute information on April 23, 2015. Father stated to a social worker that he did not know Todd missed any appointments. He provided financial assistance to mother and she takes care of everything. He was not aware of mother leaving the children alone unsupervised. He stated that he was not aware of mother smoking marijuana. He had never seen her smoke marijuana or be under the influence. Father did not appear for a drug test on April 7, 2015, but he tested negative for drugs on April 11, 2015. The social worker reported that mother had been compliant with meeting Todd's medical needs. Todd had attended all of his medical appointments from November 2014, through March 2015.

A hearing was held on May 4, 2015. The court dismissed the counts related to substance abuse, but sustained counts b-1 and j-1, b-2 and j-2, and b-5 and j-5. The court found substantial danger existed to the physical or mental health of the children. The court declared K.R. and Todd dependent children of the court. The court ordered the children placed in mother's home under the Department's supervision. Father was allowed to visit Todd twice per week. The Department was ordered to monitor father's visits and was granted discretion to liberalize visitation. The court ordered family maintenance services. Mother's case plan included individual counseling for the issues in the case. She was to ensure that the children attend their regular medical appointments and that Todd attend regional center appointments. Both mother and father were ordered to submit to drug tests on demand, and if any test was missed or positive for drug use, they must attend a drug rehabilitation program. Father's case plan also ordered him to attend individual counseling to address the issues in the case, including anger management if recommended by the therapist. Mother and father each filed a notice of appeal from the court's May 4, 2015 jurisdiction and disposition order.

After a hearing on November 4, 2015,<sup>2</sup> the dependency court found mother was in compliance with her case plan. The court ordered K.R. remain released to mother. The court granted joint legal custody of Todd to mother and father, with physical custody to mother. Father has monitored visits. The court terminated jurisdiction as to both children.

## DISCUSSION

### **Statutory Scheme and Standard of Review**

A child may be adjudged a dependent child of the court under section 300, subdivision (b)(1), when “[t]he child has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness, as a result of the failure or inability of his or her parent or guardian to adequately supervise or protect the child, . . . or by the willful or negligent failure of the parent or guardian to provide the child with adequate food, clothing, shelter, or medical treatment, or by the inability of the parent or guardian to provide regular care for the child due to the parent’s or guardian’s mental illness, developmental disability, or substance abuse.”

“Although section 300 generally requires proof the child is subject to the defined risk of harm at the time of the jurisdiction hearing [citations], the court need not wait until a child is seriously abused or injured to assume jurisdiction and take steps necessary to protect the child. [Citation.] The court may consider past events in deciding whether a child currently needs the court’s protection. [Citation.] A parent’s “[p]ast conduct may be probative of current conditions” if there is reason to believe that the conduct will continue.’ [Citations.]” (*In re Kadence P.* (2015) 241 Cal.App.4th 1376, 1383-84.)

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<sup>2</sup> We take judicial notice of the November 4, 2015 minute order, in which the court stayed termination of jurisdiction as to Todd pending receipt of a juvenile court custody order. We also take judicial notice of the November 6, 2015 minute order reflecting receipt of the juvenile court custody order and lifting the stay on termination of jurisdiction as to Todd.



“When a dependency petition alleges multiple grounds for its assertion that a minor comes within the dependency court’s jurisdiction, a reviewing court can affirm the juvenile court’s finding of jurisdiction over the minor if any one of the statutory bases for jurisdiction that are enumerated in the petition is supported by substantial evidence. In such a case, the reviewing court need not consider whether any or all of the other alleged statutory grounds for jurisdiction are supported by the evidence.” (*In re Alexis E.* (2009) 171 Cal.App.4th 438, 451.)

“[I]t is necessary only for the court to find that one parent’s conduct has created circumstances triggering section 300 for the court to assert jurisdiction over the child. [Citations.] Once the child is found to be endangered in the manner described by one of the subdivisions of section 300 . . . the child comes within the court’s jurisdiction, even if the child was not in the physical custody of one or both parents at the time the jurisdictional events occurred. [Citation.] For jurisdictional purposes, it is irrelevant which parent created those circumstances. A jurisdictional finding involving the conduct of a particular parent is not necessary for the court to enter orders binding on that parent, once dependency jurisdiction has been established. [Citation.] As a result, it is commonly said that a jurisdictional finding involving one parent is “‘good against both. More accurately, the minor is a dependent if the actions of either parent bring [the minor] within one of the statutory definitions of a dependent.’” [Citation.] For this reason, an appellate court may decline to address the evidentiary support for any remaining jurisdictional findings once a single finding has been found to be supported by the evidence. (E.g., *In re Alexis E.* [, *supra*,] 171 Cal.App.4th [at p.] 451 [addressing remaining findings only ‘[f]or [f]ather’s benefit’]; *In re Joshua G.* [(2005)] 129 Cal.App.4th [189,] 202 [when a jurisdictional allegation involving one parent is found supported, it is ‘irrelevant’ whether remaining allegations are supported]; *In re Shelley J.* (1998) 68 Cal.App.4th 322, 330 [declining to address remaining allegations after one allegation found supported]; superseded by statute on other grounds as stated in *In re Christopher C.* (2010) 182 Cal.App.4th 73, 82; *Randi R. v. Superior Court* (1998) 64 Cal.App.4th 67, 72 [same].)” (*In re I.A.* (2011) 201 Cal.App.4th 1484, 1491-1492.)

“Exercise of dependency court jurisdiction under section 300, subdivision (b), is proper when a child is ‘of such tender years that the absence of adequate supervision and care poses an inherent risk to [his or her] health and safety.’ [Citations.]” (*In re Kadence P.*, *supra*, 241 Cal.App.4th at p. 1384.)

“We review the juvenile court’s jurisdiction findings and disposition order for substantial evidence. [Citations.] Under this standard ‘[w]e review the record to determine whether there is any substantial evidence to support the juvenile court’s conclusions, and we resolve all conflicts and make all reasonable inferences from the evidence to uphold the court’s orders, if possible.’ [Citations.]” (*In re Kadence P.*, *supra*, 241 Cal.App.4th at p. 1384.)

### **Medical Needs**

Both parents contend there is insufficient evidence to support the jurisdictional findings that Todd is a person described by section 300, subdivisions (b) and (j), based on their failure to meet his medical needs. We disagree. Todd is a medically fragile child. Before the petition was filed in this case, mother missed six of Todd’s necessary medical appointments in three months without rescheduling the appointments. She did not have adequate transportation to take him to medical appointments, but refused offers to assist her with transportation. Mother was disrespectful to nurses, causing some nurses to refuse to work with Todd. A week before the petition was filed in this case, Todd’s nurse needed mother’s assistance with his care and she could not be reached. Todd had to be transported to a hospital in order to reinsert his medical device. Father was aware that Todd had missed appointments, but he did not intervene or provide for Todd’s medical needs. He left it to mother to provide for Todd’s care. Although mother successfully met Todd’s medical needs during the six months between the petition filing date and the jurisdictional order, mother’s situation did not preclude the dependency court from finding reoccurrence was likely without dependency court intervention. (Cf. *In re Jose*

*M.* (1988) 206 Cal.App.3d 1098, 1104.) The dependency court's jurisdictional finding is supported by substantial evidence.

### **Inadequate Supervision**

There is also substantial evidence to support the jurisdictional findings that K.R. is a person described by section 300, subdivisions (b) and (j), based on mother's failure to provide adequate supervision. Mother repeatedly left 5-year-old K.R. at home unsupervised, knowing Todd's nurse was unable to provide supervision. She signed a contract with the nursing agency in which she acknowledged that K.R. could not be left home alone while a nurse cared for Todd. Mother also arranged inadequate supervision for K.R. She left K.R. with a neighbor who allowed her to leave the premises, without knowing whether anyone was at K.R.'s home to supervise her. The dependency court's jurisdictional finding concerning inadequate supervision is supported by substantial evidence.

### **Other Contentions Regarding Jurisdictional Findings**

Because the jurisdictional findings are supported by substantial evidence of the failure to meet Todd's medical needs or provide adequate supervision for K.R., we do not address whether the additional jurisdictional findings were supported by evidence of domestic violence. (*In re J.L.* (2014) 226 Cal.App.4th 1429, 1435; *In re Jonathan B.* (1992) 5 Cal.App.4th 873, 875 [if one basis for jurisdiction is supported by substantial evidence, the court does not need to consider the sufficiency of the evidence to support other bases].)

## **Disposition Order**

Father contends the dependency court's disposition order was not supported by substantial evidence. We conclude the appeal from the disposition order must be dismissed as moot.

“As a general rule, an order terminating juvenile court jurisdiction renders an appeal from a previous order in the dependency proceedings moot. [Citation.] However, dismissal for mootness in such circumstances is not automatic, but ‘must be decided on a case-by-case basis.’ [Citations.] [¶] ‘An issue is not moot if the purported error infects the outcome of subsequent proceedings.’ (*In re Dylan T.* (1998) 65 Cal.App.4th 765, 769.) In *Dylan T.* the appellate court concluded the erroneous denial of visitation to an incarcerated parent jeopardized the parent's interests in subsequent proceedings and declined to dismiss the appeal as moot, even though the parent was no longer incarcerated. (*Id.* at pp. 769–770; see also *In re A.R.* (2009) 170 Cal.App.4th 733, 740 [servicemember's appeal of court's refusal to stay dependency proceeding not moot even though jurisdiction terminated because his rights had been adversely affected by award of sole custody to mother].)” (*In re C.C.* (2009) 172 Cal.App.4th 1481, 1488.)

It is undisputed in this case that jurisdiction over Todd has been terminated. Under these circumstances, there is no relief this court can grant as to father's objections to the conditions imposed upon him in the disposition order. There is no reasonably foreseeable basis on which the disposition order will unfairly prejudice father's interest in subsequent proceedings. Todd was not removed from father's custody. Todd lived with mother at all times and was never removed from mother's physical custody. The disposition order reflected the status quo as to custody. Considering that father was aware Todd was not attending medical appointments, and he did not seek physical custody or ensure that Todd attended his appointments, father fails to show any potential for future prejudice.

## **DISPOSITION**

Father's appeal from the disposition order is dismissed as moot, and in all other respects the orders of the dependency court are affirmed.

KRIEGLER, Acting P.J.

We concur:

BAKER, J.

KUMAR, J.\*

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\* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.